

REMARKS

Favorable reconsideration and allowance of the subject application are respectfully requested. Claims 1-8, 10, and 15 are pending in the application, with claims 1, 3, 6, and 8 being independent. Claims 9, 11, 12, 13, and 14 have been cancelled by this amendment without prejudice or disclaimer to the subject matter contained therein. Claim 15 has been added by this amendment, which does not add any new subject matter.

Allowable Subject Matter

Applicant notes with appreciation the Examiner indication on page 6 of the outstanding Office Action that claims 6 and 8 would be allowable if amended to overcome the rejections under 35 U.S.C. §112, and that claim 12 would be allowable if rewritten in independent form.

Applicant has amended claims 6 and 8 in an effort to overcome the rejections under 35 U.S.C. §112, and has amended claim 11 to include the subject matter of allowable claim 12. Thus, Applicant respectfully request that the Examiner indicate claims 6 and 8 as being allowed. Furthermore, all pending claims should be considered allowable at least for the reasons discussed further below.

Claim Rejections under 35 U.S.C. §112

The Examiner rejected: claims 1-10 and 14 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement; and claims 1-10 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These rejections are respectfully traversed.

Applicant has amended the claims in an effort to clarify that the characteristics include cross-talk components, and in an effort to clarify the claims.

Accordingly, withdrawal of the rejections is respectfully requested.

Claim Rejections under 35 U.S.C. §103

The Examiner rejections claims 1-2, 4-5, 7, 9, 11, and 13 under 35 U.S.C. §103 as being unpatentable over McGrath (US 6,259,795) in view of Weffer (US 6,263,085). This rejection is respectfully traversed insofar as it pertains to the presently pending claims.

Claims 9, 11, and 13 have been cancelled. Therefore, the rejections against those claims are now rendered moot.

Independent claim 1 is directed to a stereophonic sound field reproducing apparatus for reproducing a stereophonic sound field.

The stereophonic sound field reproducing apparatus includes a plurality of sound wave output units arranged around each ear of a user at the time of using. Each of the sound wave output unit receives signals and outputs sound waves. The apparatus also includes a first signal processing unit that processes signals to be supplied to the sound wave output units to correct the signal based on characteristics between the sound wave output units and the ear head of the user. The characteristics including cross-talk components at a plurality of positions between the ear of the user and the sound wave output units.

As previously submitted, McGrath is directed to audio processing in order to create an audio environment for multiple users that gives the user an illusion of sound located in space. Weffer is directed to a headphone that has a surround sound speaker configuration.

The Examiner acknowledges on page 6 of the Office Action that McGrath fails to disclose a plurality of sound wave output units being arranged around each ear of the user and cites Weffer for support thereof.

Applicant respectfully submits that the cited art fails to establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met: (1)

there must be some suggestion of motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference must teach or suggest all the claim limitations, see *In re Vaeck*, 947 F.2d 48, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully submits that the cited art contains absolutely no teaching that the characteristics include cross-talk components at a plurality of positions between the ear of the user and the sound wave output units, as recited in at least independent claims 1 and 3. Thus, the pending claims are not obvious in view of the cited art.

Dependent claims 2, 4-5, 7, 10, and new claim 15 should be considered allowable at least for depending from an allowable base claim.

Accordingly, in view of the above discussion, withdrawal of the rejection is respectfully requested.

Conclusion

In view of the above amendments and remarks, this application appears to be in condition for allowance and the Examiner is,

therefore, requested to reexamine the application and pass the claims to issue.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Martin Geissler (Reg. 51,011) at telephone number (703) 205-8000, which is located in the Washington, DC area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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